IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 22087 of 2006
with
SPECIAL CIVIL APPLICATION NO 22088 OF 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JADAV AJITKUMAR GANESH BHAI & 1 - Petitioner(s)
Versus
AMC - Respondent(s)

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Appearance :
MR ASHISH M DAGLI for Petitioner(s) : 1 - 2.
None for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 13/10/2006

ORAL JUDGMENT

1.Heard learned Advocate Mr. Dagli for

petitioners herein. Considered the averments made in the memo of petitions and the submissions made by the learned Advocate Mr. Dagli on behalf of the petitioners.

2. According to the petitioners, advertisement was issued at Annexure A page 12 on 14.6.2006 for the post of Sahayak Sanitary Sub Inspector. In all 53 posts were advertised out of which, 11 posts were reserved for scheduled tribe candidates, 40 posts were reserved for socially and educationally back ward class and two were for general candidate category. As per the qualification prescribed in the advertisement, candidate was required to have passed the examination of Sanitary Sub Inspector. As per Condition No.8 thereof, it was made clear that the candidate is bound by the resolution of the Finance Department, State Government dated 16.2.2006 and Standing Committee Resolution NO. 138 dated 9th June, 2006. Other requirements were also specifically made clear in item no. 1 to 9. Present petitioners are belonging to SEBC category. Grievance of the petitioners is that

they have not been called for oral or written test by the staff selection committee. Further grievance is that the appointments have been made without written and/or oral test/interview and, therefore, petitioners had approached the Municipal Commissioner by letter dated 19.9.2006 calling upon certain details of selection for the post in question from the corporation under the provisions of the Information Act. Reply was given by the Central Office, Interview Vibhag of the Ahmedabad Municipal Corporation on 26.9.2006. These details have been published on the website of the Ahmedabad Municipal Corporation on 11th September, 2006. According to the respondent Corporation, posts in question have been filled up according to the qualifications preseribed in the advertisement. No written/oral examination were taken. Selectons have been made as per the merits received by each candidate. Staff Selection Committee has published resolution no. 9 dated 11.9.2006 for calculating/determining merits of each candidates. Along with the reply, copy of

resolution no. 9 dated 11th September, 2006 of the staff selection committee was also annexed by the Corporation. Staff Selection Committee met on 6th September, 2006 at about 4.00 p.m. At Usmanpura Zonal Office. Staff Selection Committee was consisting of four members namely (1) Deputy Municipal Commissioner (Adm); (2) Deputy Muni. Commissioner (Health/W.Zone); (3) Municipal Chief Auditor (4) Health Officer. According to the details supplied by the Corporation, for filling up 53 posts, Staff Selection Committee passed resolution dated 24.8.2006 wherein weightage has been decided for calculating rating of each candidate. Following are the weightage for deciding rating of each candidate:

1. SSC, 10 % of total percentage received by the candidate in the said examination.

2. SSI : 60% of Sanitary Sub Inspector of the total percentage of marks received by candidate in the examination of SSI.

3. HSC : 20% of total percentage received by

the candidate in the said examination.

4. Graduation : 10% of total percentage received by the candidate in the Graduation.

However, if the candidate is graduate in Science, then, 10% of total percentage received by the candidate in the said examination and thereafter, whatever figure comes, 15% marks should have to be added.

3. Aforesaid norms were prescribed by the staff selection committee and, thereafter, staff selection committee revised norms for preparing merit list because certain applications received were not containing complet details and, therefore, in case when mark sheet of SSC or HSC is not produced by the candidate, then, 35% should have to be considered as obtained by the candidate. In case where examination has not been cleared at the first trial/attempt, then, same method has to be adopted, to consider 35% marks in such respective examination. Candidate

should have to produce details at the time of appointment of such candidate. Applications NO. 545, 681 and 774 were rejected by the staff selection committee. In all 1537 applications were received out of which 1206 candidates were considered to be eligible. Therefore, for considering the percentage of each examination SSC,HSC, SSI and graduate, staff selection committee has prepared merit list. Staff selection committee has decided not to take written and/or oral test/interview in light of the norms fixed by the committee. Staff Selection Committee prepared merit list out of which 40 candidates were selected from SEBC Category, 11 from ST Category and two from general category. Details have been given by the corporation of select list with percentage of marks obtained by each candidate. According to the petitionres, as per the averments made in the memo of petition paragraph 2, it is submitted that one Nareshbhai Hirabhai who

was selected was having the percentage of 61 against which petitioners are having 61.5 percentage. In para 5 of the memo of petition, it is averred that one Chavda Jagdishkumar was having percentage of 58 but no details have been given by the petitioners about their percentage of marks obtained in the examination of SSI. Considering the averments made in para 5 of the memo of petition, it appears that blanks have been kept and no details have been given by the petitioners. Petitioners have not given details how many percentage has been obtained by them in SSC, HSC, SSI and Graduation examination. In absence of these details, which are very much relevant and material, this court cannot examine the allegations made by the petitioners against the corporation and the procedure which has been followed by the staff selection committee is rational and transparent and the same has been applied to each candidate. Petitioners

are not able to point out before this Court that the norms fixed by the staff selection committee have not been properly maintained in selecting the candidates. It is not the case of the petitioners before this Court that the petitioners are possessing more percentage of marks as per the norms fixed by the staff selection committee and yet the staff selection committee has ignored their merits of both the petitions. Petitioners have not produced total select list of 53 candidates who have been selected by the staff selection committee. As per page 22, list of only sixteen candidate has been annexed to the memo of petition but the list of all 53 candidate has not been produced by the petitioners. Therefore, it is very difficult for this court to examine the contentions/allegations made by the petitioners against the corporation. Method which has been adopted by the Selection Committee is known method as adopted by the

State Government for selecting Vidya Sahayak has been adopted by the Staff Selection Committee for selecting the Sahayak Sanitary Sub Inspectors. Such method is proper which is not having voice of any member of selection committee to favour or disfavour any particular candidate. Selection is strictly as per the norms prescribed by the staff selection committee and the petitioners are not able to point out any defect in the selection of any candidate contrary to the norms fixed by the committee. Therefore, merely because merit has been examined without calling candidates for written/oral test, selection made by the staff selection committee cannot be doubted. On the contrary, such method has to be considered proper which shows transparency in the selection as none of the members of the staff selection committee is having any voice or have any right or discretion to favour or disfavour any candidate. It is purely selection based

on merits of each candidate. Candidates those who are not included in the select list can challenge such selection on the grounds by pointing out that the merits as per the norms prescribed by the staff selection committee have not been followed by the committee while selecting the candidates and therefore, selection is bad which is not the case of the petitioners before this court. Petitioners herein are not able to point out more percentage as per the norms fixed by the staff selection committee before this court and no details have been given in the memo of petition. On the contrary, in paragraph 5 of the memo of petition, there was gap in column of percentage in respect of both the petitioners, therefore, according to my opinion, staff selection committee has rightly prescribed norms to select candidate on the basis of merits received by candidatefrom each examination and merits have been equally applied to each candidate

and accordingly calculation has been made. Petitioners are not able to satisfy this court that the staff selection committee has discriminated petitioners and exercised powers in an arbitrary manner and not considered the case of the petitioners though petitioners are having better percentage of marks in comparision to the candidates selected by the staff selection committee. This Court cannot seat as an appellate authority over the selection made by the staff selection committee. At the most, this court can verify merits of each candidate on the basis of the norms fixed by the staff selection committee. Petitioners are not able to point out any example from the select list wherein particular norms fixed by the staff selection committee is not applied by the staff selection committee. None of the candidates have been selected de-hors the norms. Therefore, according to my opinion, petitioners have failed to establish before

this court that the selection is bad or contrary to the norms fixed by the staff selection committee in absence of oral/written examination.

4. Learned Advocate Mr. Dagli for the petitioenrs has not been able to point out any irregularity and/or illegality committed by the staff selection committee of the corporation which would require interference of this court in exercise of the powers under Article 226 of the Constitution of India. Staff selection committee is perfectly justified in not selecting petitionres as they are not able to get merits as per the norms fixed by the staff selection committee.

5. However, it is open for the petitioners, if they are possessing more merits according to the norms fixed by the staff selection committee, then, they can approach the Ahmedabad Municipal Corporation by giving details in respect of each examination,

SSC/HSC/SSI/Graduation. Now, petitioners are having details of the norms fixed by the staff selection committee, therefore, it is easy for the petitioners now to approach the corporation by pointing out merits before the Corporation in light of the norms fixed by the staff selection committee. In such event, if the Corporation receives such representation from the petitioners, then, Corporation shall have to examine the same in light of the norms fixed by the staff selection committee and apply to it in case of both the petitioners and to pass appropriate reasoned order in accordance with law, otherwise, there is no substance in these petitions and are required to be rejected.

6. Accordingly, these petitions are dismissed.

(H.K. Rathod,J.)

Vyas